

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

GILBERTO PEREIRA BRITO, FLORENTIN  
AVILA LUCAS, and JACKY CELICOURT,  
individually and on behalf of all those  
similarly situated,

*Plaintiff-Petitioners,*

v.

MERRICK B. GARLAND, et al.,

*Defendant-Respondents.*

Case No. 19-11314-PBS

**PROPOSED JUDGMENT**

The Court has ordered the parties to file a proposed form of judgment.

In an opinion dated December 28, 2021, the U.S. Court of Appeals for the First Circuit affirmed this Court's declaratory judgment "to the extent it declared that if the government refuses to offer release subject to bond to a noncitizen detained pursuant to 8 U.S.C. § 1226(a), it must either prove by clear and convincing evidence that the noncitizen is dangerous or prove by a preponderance of the evidence that the noncitizen poses a flight risk." *Brito v. Garland*, 22 F.4<sup>th</sup> 240, 256-57 (1st Cir. 2021). The First Circuit otherwise vacated this Court's declaratory judgment and permanent injunction, and remanded for entry of judgment in accordance with its opinion. *Id.*

The First Circuit denied cross motions for rehearing and/or rehearing en banc on July 6, 2022, and issued its Mandate on July 14, 2022.

Accordingly, the plaintiffs propose that the Court should enter the following declaratory judgment as to both classes, with each party to bear its own fees and costs:

“The Court declares that noncitizens detained pursuant to 8 U.S.C. § 1226(a) are entitled to receive a bond hearing at which the Government must prove the noncitizen is either dangerous by clear and convincing evidence or a risk of flight by a preponderance of the evidence.”

Dated: September 8, 2022

Respectfully submitted,

**GILBERTO PEREIRA BRITO,  
FLORENTIN AVILA LUCAS, and JACKY  
CELICOURT, individually and on behalf of  
all those similarly situated,**

By their attorneys,

/s/ Daniel L. McFadden

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